

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA

-----X
JOHN DOE,

Plaintiff,

-against-

WASHINGTON AND LEE UNIVERSITY,

Defendant.
-----X

X

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: Civil Action No:

:

:

: **DECLARATION OF**
: **WITNESS 1**

:

:

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X

I, Witness 1,¹ declare pursuant to 28 U.S.C. 1746:

1. I am a witness to the events and witnesses described in the underlying action and I submit this Declaration in support of Plaintiff John Doe's Motion for a Preliminary Injunction.

2. I am a student at Washington and Lee University in my junior year.

3. At the time of the events described in the underlying Complaint, I was John Doe's roommate all of sophomore year.

4. I am a member of SPEAK, which is a student organization on campus that advocates against sexual assault. I have been a member of SPEAK since the beginning of my junior year. Jane Doe is also a member of SPEAK.

5. On October 5, 2014, SPEAK held a meeting to train all the members of SPEAK for freshmen orientation. The meeting was held from about 1:00 p.m. to 4:00 p.m. I believe Jane Doe was also present at this particular training session.

¹ Because Plaintiff is moving to proceed anonymously and revealing my name may reveal the name of Plaintiff, I am being identified in this declaration as "Witness 1," which is not my real name. I am the first witness identified on page 11 of the report attached as Exhibit B to the Verified Complaint. Although I am not using my name in this Declaration, Defendant, which prepared the report, is aware of my identity.

6. For the first two hours, Director of Health Promotion Jan Kaufman and Clinical Psychologist Dr. Janet Boller led the training on how we were expected to teach the freshmen on “active bystanding.”

7. For the last hour, Title IX Coordinator, Lauren E. Kozak talked about Title IX and her duties and responsibilities in her role as Title IX Coordinator. I believe Ms. Kozak presented a few power point slides about the active bystanding program. One of the power point slides introduced an article, “Is it Possible That There Is Something In Between Consensual Sex And Rape...And That It Happens To Almost Every Girl Out There?” A true copy of the article is attached as *Exhibit H*. Available at <http://totalsororitymove.com/is-it-possible-that-there-is-something-in-between-consensual-sex-and-rape-and-that-it-happens-to-almost-every-girl-out-there/> (last visited December 11, 2014). Ms. Kozak asked us to review the article and discuss it amongst ourselves.

8. Ms. Kozak stated that the reason for introducing this article was to make her point that regret equals rape, and she stressed the point very strongly. Ms. Kozak went on to state her belief that this point was a new idea everyone is starting to agree with.

9. A few female students agreed with Ms. Kozac’s points, and stated that they have been in a similar scenario. I do not believe any males in the room offered an opinion on this article. I also remember this article being pretty popular with most of the female students in SPEAK. Of the 14-18 students present at the SPEAK training, only 4 or 5 of us had not read the article.

10. I do not remember which other students contributed to the discussion, but I do remember Ms. Kozak said, “Regret is rape.” I remember this, because I have never heard anyone say this or have this opinion. Honestly, I felt incredibly uncomfortable, because it was extremely

awkward having so few guys in the room while this opinion was being discussed. There were only 2 or 3 male students, including myself, in the room with 12 to 15 female students (including Jane Doe) along with an all-female panel of directors leading the training.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York
December 12, 2014

Witness I

WITNESS 1

H

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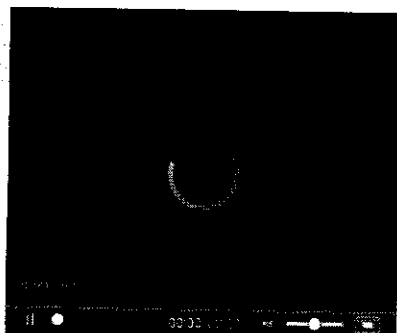


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Is it Possible That There Is Something In Between Consensual Sex And Rape...And That It Happens To Almost Every Girl Out There?

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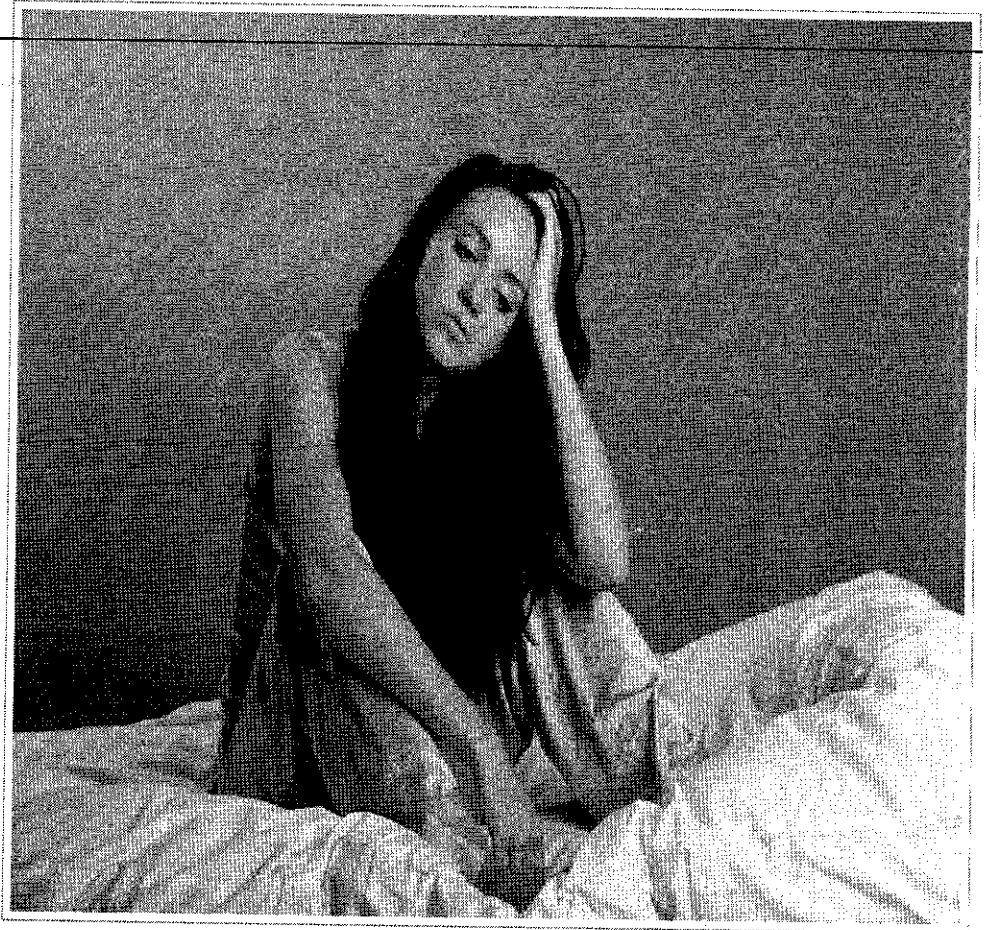
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Um, Interesting "Blank Space" Video, We're
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Mel and Eva



I rolled out of bed around noon that day, in celebration of it being Saturday. After no fewer than 13 hours of drinking, I ended up at my friend Matt's house. I had been flirting with him all night—and arguably all of my college career.

He wasn't traditionally good-looking, but he was a notorious charmer with some serious bad boy in him that made him weirdly hot in a not-hot way. Even though we'd been strictly platonic since we met, I always felt a twinge of secret excitement when I had his attention, so when I found myself having a heart-to-heart with him in his bedroom, I felt a weird combination of emotions. Part of me felt as if I was 15 again. I was excited and nervous to be there. I was hyper aware of my body, and of his, wondering, maybe even hoping, he'd kiss me. Another part of me felt that this was wrong. Not in an "it's wrong, but it's hot and scandalous and I still want to do it" way—wrong as in not right, wrong as in uncomfortable. This was not a guy I wanted to get involved with. This was a guy who'd had anonymous girl after anonymous girl in and out of his bedroom since we were in the dorms. This was a guy with whom I'd had countless conversations about his inability to care about women, romantically. This was Matt. He interrupted my inner conflict with something that would have way more weight years later.

"I feel like you want me to make a move, just so you can turn me down," he said.

Before I even had a chance to decide if he was right, we were making out. In my state of extreme intoxication, my mind was racing in search of a decision. This was exciting. This was fun. But this was also really, really weird, and ultimately, not a road I wanted to go down. I couldn't decide if the excitement and lust in the air would win over the pit in my stomach. It wasn't until he grabbed a condom that I really knew how I felt. I was not okay with this. I did not want to have sex with him.

But I did.

True Life: I Got Caught Having Sex In My
Sorority House
wait_what25

He slid inside me and I didn't say a word. At the time, I didn't know why. Maybe I didn't want to feel like I'd led him on. Maybe I didn't want to disappoint him. Maybe I just didn't want to deal with the "let's do it, but no, we shouldn't" verbal tug-of-war that so often happens before sleeping with someone. It was easier to just do it. Besides, we were already in bed, and this is what people in bed do. I felt an obligation, a duty to go through with it. I felt guilty for not wanting to. I wasn't a virgin. I'd done this before. It shouldn't have been a big deal—*it's just sex*—so I didn't want to make it one.

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Hakuna Moscato

I stared at the ceiling the whole time, occasionally flashing him the fake smile reserved for people you accidentally make eye contact with in the grocery store. I don't think I moved the entire time, and I didn't care if he noticed. I just wanted it to end, and I knew it wouldn't be long. I just had to suck it up for a few minutes, let him do his thing, and it would be over. When it finally was, he smiled at me, kissed my forehead, and asked how it was. As we cuddled, I realized that what we had done was no different to him than the sex he'd had with anyone else. Overnight, I convinced myself it was no different to me, either.

26 Reasons Not To Kill Yourself While You're
Home This Holiday Season
bowsandbourbon93

I woke up with an "oh shit" feeling that quickly turned into an "oh well." I didn't really feel I'd been violated, though part of me knew I had. I wasn't mad. I wasn't hurt. I didn't want vengeance. I didn't even feel weird around him soon after. I didn't feel much of anything. I certainly didn't feel like I'd been raped. But what had happened the night prior was not consensual sex, and I didn't like it. I wanted the flirting. I wanted the kissing. I wanted the sleepover. But I didn't want to go all the way. And that's very hard to explain to a man who is just as drunk as you are.

There is not a word for my experience. The fact that there's not a word for it makes us feel like it doesn't exist. Or maybe there's not a word for it because we're pretending it doesn't exist. But this weird place in between consensual sex and rape? It's there. It *does* exist. And it's happening all the time. As it turns out, almost every woman I spoke to had been there at some point or another:

"To be honest, it would have been awkward to say no, so I just did it."

"I don't feel like it was a huge deal. Sometimes you have to have lunch with girls you don't want to have lunch with, and sometimes you have to have sex with boys you don't want to have sex with. Maybe you're pissy about it right after, but it doesn't affect you long-term, you know?"

"He was really drunk. He had no way of knowing I didn't want it."

It happens to us with consistent hookups, first dates, boyfriends, and one-night stands alike. We have sex with guys, because sometimes it's just easier to do it than to have the argument about not doing it. But no one talks about it. Talking about it makes it a big deal. It makes us feel like we're whining. It makes us feel like we're being dramatic. And we don't want it to be dramatic. We don't feel entirely violated. It doesn't affect us forever. We just feel like we got the short end of the stick, and that sometimes, we have to do something we don't want to do, out of politeness or social obligation. So why bring it up? Why risk wrongfully tagging a guy with a serious, heavy label he doesn't deserve? And more importantly, why risk being wrongfully tagged as "the girl who cried rape," when we're not trying to say it was rape at all? We're saying we don't know what it was. We just didn't like it. But by refusing to acknowledge the existence of these rape-*ish* situations, we're continuing to subject ourselves to them indefinitely.

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Nice Move



hot piece of TSM  

Hot Piece (@VeronicaGrandex) is the Director of Total Sorority Move for Grandex, Inc. After having spent her undergraduate years drinking \$4 double LITs on a patio and drunk texting away potential suitors, she managed to graduate with an impressive GPA and an unimpressive engagement ring -- so unimpressive, in fact, some might say it's not there at all. Hot Piece has since been fulfilling her duties as "America's big," a title she gave to herself with the help of her giant ego. She has recently switched from vodka to wine on weekdays. Email her at veronica@grandex.co

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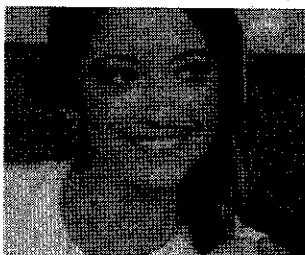
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COMMENTS

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Big

southerngirl2294 Thank you so much for writing this. I had something like this happen to me my 219
freshman year, and a while later I started dating another guy. I eventually opened up to my boyfriend at the time about what had happened, explaining that I felt like I got raped, but at the same time I knew it wasn't RAPE. He accused me of being the "girl who cried wolf" and broke up with me then and there, and then proceeded to tell the guy that raped-but-didn't-rape-me-idk that I was going around telling people that he raped me (which I wasn't, nobody knew that him and I had sex besides me, my big, and my later boyfriend). This is an issue that needs to somehow be addressed, because I know I'm not alone when I say that there's nights where I just break down and cry because I'm not sure how I'm supposed to feel about sleeping with this guy 3 years later.

^ This • Bless your heart • Reply • 3 months ago



Staff

hot piece of TSM I'm sorry to hear that, and I definitely do think it's an issue. You're not 124
alone. I'd really venture to say that most women have an experience like this. Maybe different details. But you didn't say no. And you're not mad at the guy, and don't want him to get in trouble. But it left you feeling uncomfortable. I think starting a dialogue is the first step, but I don't have any idea what the possible solution is.

^ This • Bless your heart • Reply • 3 months ago



Big

Yonce I think the best solution is education on affirmative, enthusiastic consent. 69
Understanding that consent to one thing means consent to ONLY that thing. Any time you want to escalate from one physical/sexual act to another (e.g. from getting in bed to having sex), then you need to ASK your partner. If your partner clearly wants to have sex as much as you do, they'll indicate it either verbally or nonverbally and that is consent. We should emphasize that instead of going for the baseline of a barely "yes" or a go along to get along type of response, that we want our partners to clearly want it as much as we do. Then the sex will be consensual and more hot.

^ This • Bless your heart • Reply • 3 months ago